

THE HONORABLE JOHN C. COUGHENOUR

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

DEFORGE MARITIME TOWING, LLC,
Plaintiff,
v.
HAMILTON CONSTRUCTION, LLC,
Defendant.

CASE NO. C23-0827-JCC
ORDER

This matter comes before the Court on Plaintiff’s motion to consolidate and continue trial (Dkt. No. 15). Specifically, Plaintiff seeks to consolidate this action with *DeForge Maritime Towing, LLC v. Jeff Hamilton, et al.*, Case No. C24-0369-JCC (W.D. Wash. 2024), on the ground that the two actions involve common issues of law and fact. Having thoroughly considered the briefing and the relevant record, the Court hereby GRANTS the motion for the reasons explained herein.

This is an admiralty and maritime action arising out of the alleged breach of a charter agreement. (*See generally* Dkt. No. 1.) In August 2022, Defendant Hamilton Construction chartered Plaintiff’s barge to move cargo between Washington and Alaska. (*Id.* at 2.) In June 2023, Plaintiff brought the instant case, claiming Defendant breached its obligations under the charter agreement by, among other things, failing to return the vessel in the same condition it received it and failing to acquire certain insurance coverage. (*Id.* at 2–5.) Plaintiff seeks damages

1 for repair costs, unpaid charter hire, costs to retake the vessel, and attorney fees. (*Id.* at 5.)

2 Discovery has concluded, the joinder deadline has passed, and trial is set for May 28, 2024.

3 On March 19, 2024, Plaintiff filed a second action, this time against Jeff Hamilton and
4 Travelers Casualty Insurance Company (“Travelers”). *See* Case No. C24-0369-JCC, Dkt. No. 1.
5 The case involves the same underlying incident. (*See id.*) For that reason, Plaintiff moves to
6 consolidate both cases and continue the May 28 trial date. (*See* Dkt. No. 15.) Hamilton
7 Construction and Travelers oppose. (*See* Dkt. Nos. 17, 18.)

8 If multiple actions before the Court involve a common question of law or fact, the Court
9 may consolidate the actions. Fed. R. Civ. P. 42(a)(2). The Court has substantial discretion in
10 determining whether to consolidate actions and/or continue trial. *See Inv’rs Research Co. v. U.S.*
11 *Dist. Court for Cent. Dist. of Cal.*, 877 F.2d 777, 777 (9th Cir. 1989); *Rios-Barrios v. I.N.S.*, 776
12 F.2d 859, 862–63 (9th Cir. 1985). Once a common question of law or fact is identified, the Court
13 considers factors such as the interests of justice, expeditious results, conservation of resources,
14 avoiding inconsistent results, and the potential of prejudice. *See* 8 MOORE’S FEDERAL PRACTICE
15 – CIVIL § 42.10 (3d. ed. 1997).

16 Here, both suits were brought by the same plaintiff and involve the same core facts.
17 Moreover, one of the newly named defendants, Mr. Hamilton, is the owner of Hamilton
18 Construction, the defendant in this case. According to Plaintiff, Mr. Hamilton signed a personal
19 and unconditional guarantee on the payment and performance of each of Hamilton
20 Construction’s obligations under the relevant charter agreement. *See* C24-0369-JCC, Dkt. No. 1
21 at 1–2. And finally, although the cases are at different stages of litigation, any potential prejudice
22 to Defendants in delaying trial is outweighed by the efficiency in conducting a single trial. Thus,
23 because the cases involve common questions of law and fact, the Court finds that consolidation
24 would conserve resources, avoid inconsistent results, and otherwise serve the interests of justice.

25 For the reasons described above, the Court ORDERS that the following cases be
26 consolidated: Case No. C23-0827-JCC and Case No. C24-0369-JCC. All future filings shall bear

1 the caption and case number of the case first filed in this district, *DeForge Maritime Towing,*
2 *LLC v. Hamilton Construction, LLC, et al.*, Case No. C23-0827-JCC. The remaining case, Case
3 No. C24-369-JCC, shall be CLOSED, and any case management deadlines set in that case shall
4 be VACATED. Plaintiff's motion to continue the May 28 trial is GRANTED. The parties are
5 DIRECTED to meet and confer and, within 30 days of this order, submit a joint status report
6 containing a proposed case management schedule for the newly consolidated case.

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8 DATED this 22nd day of April 2024.

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12 John C. Coughenour
13 UNITED STATES DISTRICT JUDGE
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